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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT PAPER NUMBER

3728

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,878

Applicant(s)

TSAUR, GARRY

Examiner

Shian T. Luong

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-38 is/are pending in the application.
- 4a) Of the above claim(s) 25-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20,21,23 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Zilem et al. (US 2,868,361). Zilem et al. discloses a retractable packaging comprising an elongated hollow tube 1 that can be compressed and elongated axially. An elongated member disposed within the elongated hollow tube housing. The elongated tube housing enclosed the elongated member and when the elongated hollow tube housing is retracted by compressing the elongated hollow tube housing axially, one end of the elongated member is exposed. The elongated hollow tube housing has a sealed end around element 8 and an open end. The elongated hollow tube housing comprises a flexible bellow section 6 that can be compressed and elongated axially between two ends of the elongated hollow tube housing. The elongated member has an applicator at an end.

3. Claims 20-24 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Faulseit. (US 3,342,319). Faulseit discloses a retractable packaging comprising an elongated hollow tube 19,19'19'',19a19c that can be compressed and elongated axially. An elongated member disposed within the elongated hollow tube housing. The elongated tube housing enclosed the elongated member and when the elongated hollow tube housing is retracted by compressing the elongated hollow tube housing axially, one end of the elongated member is exposed. The elongated hollow tube housing has a sealed end and an open end. The elongated hollow tube

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housing comprises a flexible bellow section 22,22',22'',22a, 22c that can be compressed and elongated axially between two ends of the elongated hollow tube housing. The elongated member has at least one applicator at an end while both ends have applicators. One end of the elongated member is affixed to the sealed end of the elongated tube housing as shown in Figure 26.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22,24 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Zilem et al. in view of Official Notice. It is conventionally known to affix one end of an elongated object within a container to secure the object within the container. It would have been obvious in view of Official Notice to secure the elongated object of Zilem et al. to the base for securement.

Response to Arguments

6. Applicant's arguments filed on 2/16/06 have been fully considered but they are not persuasive. Applicant's arguments directed to the combination of Zilem and Fauseit are not understood. The claims were rejected under 35 USC § 102 by Zilem and by Fauseit individually. The only obviousness rejection is the combination of Zilem and Official Notice

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which applicant did not appear to make an argument. Hence, applicant's comments are not found persuasive.

With regard to the constant diameter and constant cross section of the retractable packaging as argued on page 9 of the response, applicant did not claim those structures in the independent claim 20.

As for sealing one end of the container of Zilem as argued on page 11 of the response, Zilem et al already has a sealed end by the connection of element 6 to element 8. Therefore, no modification is required.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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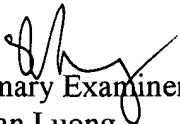
Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Erica Miller at (571) 272-4370.

For applicant's convenience, the official FAX number is 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST. The examiner's supervisor Mickey Yu can be reached at (571) 272-4562 for urgent matters.

STL
March 26, 2006


Primary Examiner
Shian Luong
Art Unit 3728